IN THE HIGH COURT OF JUDICATURE AT MADRS

Dated:- 24.08.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUMAR

Writ Petition No.3422 of 2006
and
W.V.M.P. No.1331 of 2006

J.Mohana ... Petitioner

vs.

1. The Commissioner of Police,
Chennai City, Egmore,
Chennai-600 002.

2. The Chairperson,
Tamilnadu Pollution Control Board,
N0.100, Anna Salai,
Guindy, Chennai-600 003.

3. The Commissioner,
Corporation of Chennai,
Ripon Building,
Chennai-600 003.

4. The Inspector of Police,
V-4, Rajamangalam Police Station,
Srinivasa Nagar 1st Main Road,,
Senthil Nagar,
Chennai-600 099.

5. Rev.N.Ezra Sargunam,
Bishop and Senior Pastor,
Evangelical Church of India,
No.27/152 Red Hills Road,
Rajaji Nagar,
Villivakkam,
Chennai-600 049.

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6. Raja Singh,
Pastor, Evangelical Church of India,
No.27/152 Red Hills Road,
Rajaji Nagar, Villivakkam,
Chennai-600 049. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a writ of mandamus directing respondents 1 to 4 to take appropriate and immediate action in the matter against the 5th and 6th respondents as per law to control the menace of noise pollution emanating from the Evangelical Church of India at Door No.27/152, Red Hills Road, Rajaji Nagar, Villivakkam, Chennai-49, within a time frame fixed by the Court.

For Petitioner : Mr.S.Sathia Chandran

For R-1 & R-4 : Ms.D.Geetha,
Additional Govt. Pleader

For R-2 : Mr.Kalyanaraman
for Ms.Rita Chandrasekar

For R-5 & R-6 : Mr.K.Sankar Krishnan

(Order of the Court was made by P.SATHASIVAM, J.)

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The petitioner by name J.Mohana, a resident of Rajaji Nagar 4th Street, Red Hills Road, Villivakkam, Chennai-49, has filed this Public Interest Litigation, seeking for the issuance of a writ of mandamus, directing respondents-1 to 4 to take appropriate and immediate action in the matter against 5th and 6th respondents as per law to control the menace of noise pollution emanating from the Evangelical Church of India at Door No.27/152, Red Hills Road, Rajaji Nagar, Villivakkam, Chennai-49.

2. In the affidavit filed in support of the above Petition, it is stated that the house of the petitioner comes within Zone No.4 and Division/Ward No.62 of the Corporation of Chennai and adjoining her house on the northern and eastern sides, situates the Church run by the 5th and 6th respondents. For the past one year, the sound emanating from the said Church during the time of prayer and other services has reached and surpassed unbearable proportions with the decibel levels of multiple times than the audible level. Further, High Watt Loudspeakers are positioned towards south facing her house. The cacophony of high decibel sounds and the torrential hand claps while rendering the hymns from the said Church literally paralyses every activity of the petitioner and her family members due to the fact that the sound speakers are kept at just 8 feet away from the

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compound wall of her house. The church also periodically organizes special prayer meetings apart from regular meetings. The church is also conducting marriages, receptions, birthday and other ceremonial functions of its members with the facilities available for cooking and dining. Since the church is situated in the midst of a cluster of residential houses, the noise pollution created in the church premises poses a serious health hazard to the public in general and the family members of the petitioner in particular. The respondents are aware that use of cone speakers has been completely banned and, in spite of the same, the Church still makes use of the cone speakers. She made a representation, dated 12.01.2006, to respondents-1 to 4 herein, praying to take appropriate and immediate action in the matter as per law to control the menace of noise pollution emanating from the church of the 5th and 6th respondents. Though respondents-1 to 3 received the same on 18.01.2006 and respondents-5 and 6 on 25.01.2006 and 23.01.2006 respectively, there was no proper action. In such circumstances, she filed the present Writ Petition.

3. On behalf of the Tamil Nadu Pollution Control Board/R-2 herein, its Additional Chief Environmental Engineer, has filed a counter affidavit, highlighting their stand. It is stated that Ambient Noise Level Survey has been conducted by the Board officials in the premises of the petitioner on 17.2.2006 and 19.02.2006, both Friday and Sunday respectively, during which period, activities like singing songs/prayers/sermons were carried out in the Evangelical Church of India, located adjacent to the petitioner's premises. The time taken for singing songs varied between 2 to 3 minutes and for the prayer/sermons between 3 to 7 minutes. The report of analysis of Ambient Noise Level Standards is enclosed along with the counter affidavit. There has been no cone speakers placed in the church and the box speakers are placed inside the Church. During the time of noise level survey, two box speakers have been placed inside the church near the window facing the petitioner's premises on the northern and eastern sides. The distance of the petitioner's building to Church building is about 13 feet. The open area distance between the Church building and the compound wall is about 10 feet. The open area distance between the petitioner's building and the compound wall is about 3 feet. In the counter, the details regarding results of the Ambient Noise Level Survey conducted on 17.2.2006 and 19.2.2006, which are compared with the background noise level and the Ambient Noise Level prescribed in the Noise Pollution (Regulation and Control) Rules, 2000, have been mentioned in a tabular form.

After narrating the same and after referring to the relevant Rule, viz., Rule 7(1) of the Noise Pollution (Regulation & Control) Rules, 2000, it is stated that the activities of the Church, ie, singing songs/sermons/prayers using song drums and other musical instruments with box speakers had resulted in the increase of the

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noise level more than 10 dB(A) Leq of the back ground noise level and also the ambient noise level standards, which is a clear violation of the provisions of the Noise Pollution (Regulation & Control) Rules, 2000.

4. In the light of the above pleadings, we heard learned counsel for the petitioner as well as the respondents. The counter affidavit filed by the Additional Chief Environmental Engineer, Tamil Nadu Pollution Control Board, amply shows that the noise arising from the activities of the Church, ie., singing songs/sermons/prayers using song drums and other musical interments with box speakers, exceeded the prescribed noise level.

5. Rule 7(1) of the Noise Pollution (Regulation & Control) Rules, 2000 reads as follows:-

> " A person may, if the noise level exceeds the ambient noise standards by 10 dB(A) or more given in the corresponding columns against any area/zone make a complaint to the authority."

Rule-7(2) of the said Rules provides as follows:-

> " The authority shall act on the complaint and take action against the violator in accordance with the provision of these rules and any other law in force."'

6. The information collected by the Board on two days, viz., 17.02.2006 (Friday) and 19.02.2006 (Sunday) show that the noise level was above the prescribed standards. This is, undoubtedly, in violation of the the provisions of Noise Pollution (Regulation and Control) Rules, 2000.

7. It is seen that as per Rule 2 of the Noise Pollution (Regulation and Control) Rules, 2000, the District Magistrates / Police Commissioners are empowered to take appropriate action for violation of the said Rules.

8. When the report and the information furnished by the Pollution Control Board was brought to the notice of the 5th and 6th respondents, learned counsel appearing for them informed this Court that, in future, the noise level will be controlled and it will not exceed the prescribed standard. The above statement made on behalf of respondents-5 and 6 is hereby recorded. We are of the view that no further direction is required, however, it is made clear that, in future, if there is any violation of the Noise Pollution (Regulation and Control) Rules, 2000, and the noise level exceeds the prescribed

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standard, the Pollution Control Board or the prescribed authority/authorities shall take appropriate action to reduce the noise level by enforcing the Rules. In case of violation, the petitioner is also free to make representation to the authorities concerned including the Commissioner of Police, Chennai, and on such representation/complaint being made, it is needless to mention that the same has to be verified and appropriate action be taken to reduce the noise level.

9. With the above observation/direction, the Writ Petition is disposed of. No costs. Connected Miscellaneous Petition is closed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

JI.

To

1. The Commissioner of Police, Chennai City, Egmore,
Chennai-600 002.

2. The Chairperson, Tamilnadu Pollution Control Board,
NO.100, Anna Salai, Guindy, Chennai-600 003.

3. The Commissioner, Corporation of Chennai, Ripon Building,
Chennai-600 003.

4. The Inspector of Police, V-4, Rajamangalam Police Station,
Srinivasa Nagar 1st Main Road,
Senthil Nagar, Chennai-600 099.

+1cc to Mr.S.Sathiachandran, Advocate Sr 38272
+1cc to Mr.K.Sankar Krishnan, Advocate Sr 38327
+1cc to M/s. Rita Chandrasekaran, Advocate Sr 38680
+1cc to Govt. Pleader, High Court, Madras SR 38248

BVR (CO)
km/8.9.

WP No.3422/2006.

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